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OFFICE OF THE CLERK

**In the Supreme Court of the United States**

OCTOBER TERM, 1993

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UNITED STATES, PETITIONER

v.

PEDRO ALVAREZ-SANCHEZ, RESPONDENT

---

ON WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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**JOINT APPENDIX**

---

DENNIS LANDIN  
Federal Public Defender  
United States Courthouse  
15th Floor  
312 North Spring St.  
Los Angeles, CA 90012-4758  
(213) 894-2231

*Counsel for Respondent*

DREW S. DAYS, III  
*Solicitor General*  
*Department of Justice*  
*Washington, D.C. 20530*  
*(202) 514-2217*  
*Counsel for Petitioner*

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PETITION FOR WRIT OF CERTIORARI FILED MAY 12, 1993  
CERTIORARI GRANTED OCTOBER 12, 1993

**BEST AVAILABLE COPY**

## TABLE OF CONTENTS

	Page
District Court Docket Entries .....	1
Court of Appeals Docket Entries .....	10
Criminal Complaint .....	14
Indictment .....	17
Transcript of Suppression Hearing .....	19
Judgment in a Criminal Case .....	53
Order Granting Certiorari .....	55

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

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CR-88-00671-01

U.S.

v.

ALVAREZ-SANCHEZ

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DOCKET ENTRIES

DATE	NR.	PROCEEDINGS
08/08/88		Defendant arrested (Dkt'd 08/16/88).
08/09/88	1	Filed magistrate complaint (JUDGE EICK) (Dkt'd 08/16/88).  Arraignment on magistrate complaint held (DFT ARRN, STATES T/N PEDRO ALVAREZ SANCHEZ, ATTY: CAROL KLAUSCHIE APPTD/DFPD. COM TO CUST USM. CRJ ORDS 2 CALLS. CASE CONTINUED TO 8/11/88 @ 10:30 A.M. MR.) (JUDGE EICK) (Dkt'd 08/16/88).  Defendant's first appearance (Dkt'd 08/16/ 88).  Bail not allowed (JUDGE EICK) (Dkt'd 08/ 16/88).

(1)

DATE	NR.	PROCEEDINGS
08/09/88		Preliminary examination set for 08/23/88 @ 4:30 PM (P/I ARRN SET FOR 9/29/88 @ 8:30 A.M. MR.) (JUDGE EICK) (Dkt'd 08/16/88).  Detention hearing set for 08/11/88 @ 10:30 AM (DETHRG. MR.) (JUDGE EICK) (Dkt'd 08/16/88).  Order filed (FLD ORD OF TEMPORARY DETENTION. MR.) (Dkt'd 08/16/88).  —FLD NOTC DIR DFT TO APPEAR. FLD FINANCIAL AFFID. FLD NOTC OF REQUEST FOR DETENTION. MR. (Dkt'd 08/16/88).
08/11/88		Detention hearing held (CRT SETS BAIL AT \$10,000 AB 10% DEP, W/O SUR, RESP 3RD PRY. W/PSA INT SUPV. TRVL REST CDC. RESIDE W/APPRVL OF PSA. AVOID PLACES OF EGRESS, SC) (JUDGE EICK) (Dkt'd 08/24/88).  Order surety/cash bail set in the amount of \$10,000.00 (10% DEP, W/AFFID SUR NO JUST BY RESP 3RD PRY. LEGAL ESIB APPRVD BY PSA OR GVT. TRVL REST CDC. AVOID PLACES OF EGRESS. SC) (JUDGE EICK) (Dkt'd 08/24/88).
08/19/88	2	Filed indictment (KING) (Dkt'd 08/24/88).  Order surety/cash bail set in the amount of \$10,000.00 (10% DEP, AFFID SUR. SC) (KING) (Dkt'd 08/24/88).
	3	—FLD CR72 BY AUSA MADISON. SC (Dkt'd 08/24/88).
08/29/88	4	Arraignment held (Count 1) (DEFT ARRN, STATES T/N AS CHRGD. FG.) (MAGISTRATE TASSOPULOS) (Dkt'd 09/12/88).

DATE	NR.	PROCEEDINGS
08/29/88		Order appointing attorney KLAUSCHIE, CAROL to represent defendant (MAGISTRATE TASSOPULOS) (Dkt'd 09/12/88).  Defendant appears with counsel (Dkt'd 09/12/88).  Arraignment and plea continued to 09/12/88 @ 11:30 AM (Count 1) (PLEA, TRIAL SET & ALL FURTH PROC BE HLD BEFR JDGE MARSHALL. FG.) (MAGISTRATE TOSSOPULOS) (Dkt'd 09/12/88).
	5	—FLD STATE OF DEFT'S CONST RIGHTS. FG. (Dkt'd 09/12/88).
09/12/88	6	Arraignment held (Count 1) (DEFT ARRN, STATES T/N AS CHRGD, & ENT N/G PLEA TO CNT 1 OF INDICT. CRT ORD J/T ON 10/ 25/88 AT 9:00AM. STAT CONF 10/17/88 AT 1:30P.M. ALL MOTN FLD NLT 9/26/88, OPPOS TO MINS FLD NLT 10/3/88 & ANY REPLY TO OPPOS FLD NLT 10/11/88. FG.) (JUDGE MARSHALL) (Dkt'd 09/23/88).  Defendant enters plea of not guilty (Count 1) (JUDGE MARSHALL) (Dkt'd 09/28/88).  Trial date set for 10/25/88 @ 9:30 AM (Count 1) (STAT CONF ON 10/17/88 @ 1:30PM. ALL MOTN FLD NLT 9/26/88, OPPO NLT 10/3/88, REPLY TO OPPOS NLT 10/11/88. FG.) (JUDGE MARSHALL) (Dkt'd 09/28/88).  Status hearing set for 10/17/88 @ 1:30 PM (JUDGE MARSHALL) (Dkt'd 09/28/88).
09/23/88	7	Motion filed (MOT#1) (FLD DEFT'S NOTC OF MOTN, MOTN TO SUPP STATE SEIZED IN VIOL OF MIRANDA. MEMO OF PTS & AUTH. EXHB. HRG DATE 10/17/88 AT 1:30PM. FG.) (Dkt'd 10/03/88).

DATE	NR.	PROCEEDINGS
09/26/88	8	Motion filed (MOT #2) (FLD DEFT'S NOTC OF MOTN, MOTN FOR JACKSON V DENNO HRG PRIOR TO TRIAL. MOTN TO SUPP EVID. MEMO OF PTS & AUTH. DECLR OF CNSL HRG DATE 10/17/88 AT 1:30PM. FG.) (Dkt'd 10/03/88).
10/12/88	9	Filed memorandum in opposition to motion (MOT #1) (FLD GVT'S OPP TO MOTN TO SUPPRESS EVID, MEMO OF PTS AND AUTHORITIES, DECLARATION. SM) (Dkt'd 10/20/88).
10/14/88	10	—FLD RESPONSE TO MOTN FOR JACKSON DENNO HRG, MEMO OF PTS AND AUTHORITIES. SM (Dkt'd 10/20/88).
10/17/88	11	Status hearing held (MOTS CONT'D TO 10/24/88, 3PM. DEFT'S REPLY 2B FLD NLT 10/20. TR WILL BE RESET UPON RULING OF MOTS. GV CNSL TO PREP ORD EXCLUD TI. RLB) (JUDGE MARSHALL) (Dkt'd 10/28/88).
10/20/88	12	Filed reply to answer to motion. (MOT #2) (DFT'S REPLY TO GV'S OPP TO MOT FOR JACKSON —V— DENNO HRG. RLB) (Dkt'd 10/31/88).
10/24/88	17	Order filed (MIN ORD: CRT'S OWN MOT SETS STAT CONF FOR HRG ON DFTS MOTS.) (JUDGE MARSHALL) (Dkt'd 11/09/88).
10/27/88	13	—FLD SUPPLEMENTAL OPP TO DFT'S MOTN FOR JACKSON DENNO HRG, MEMO OF PTS AND AUTHORITIES, DECLARATION OF DETECTIVE JOHN MCANN AND JIMMYE WARREN. SM (Dkt'd 11/08/88).

DATE	NR.	PROCEEDINGS
10/28/88	14	Order filed (FLD FINDINGS AND ORD RE CONTD OF TRIAL EXCLUDABLE PERIOD UNDER SPEEDY TRIAL ACT OF 1974. SM) (JUDGE MARSHALL) (Dkt'd 11/08/88).
	15	Excludable delay based on finding the ends of Justice served by continuance began on 09/23/88 and ended on 10/31/88 (ENDS OF JUSTICE. SM) (JUDGE MARSHALL) (Dkt'd 11/08/88).
10/31/88	16	—FLD DECLARATION OF DETECTIVE JOHN MCANN. SM (Dkt'd 11/08/88).
	18	Motion hearing held (MOT #1) (HRG MOT TO SUPPRESS: SW WITS. MOT DFT TO S/T & FOR JACKSON V DENNO HRG ARGUED & SUBMITTED W/O FUR ORAL ARG. MI-RLB) (JUDGE MARSHALL) (Dkt'd 11/22/88).
12/02/88	19	Order filed (ORD GRANTING DFT'S MOT FOR JACKSON DENNO HRG. DFT'S MOT TO SUPPRESS IS DENIED. RLB) (JUDGE MARSHALL (Dkt'd 12/09/88).
	19	Motion granted in part: denied in part (MOT #2) (DFT'S JACKSON V DENNO HRG IS GRANTED. DFT'S MOT TO SUPPRESS IS DENIED. RLB) (JUDGE MARSHALL) (Dkt'd 12/09/88).
12/08/88	20	Defendant's requested voir dire (Dkt'd 12/19/88).
	21	Filed defendant's proposed jury instructions (Count 1) (CLEAN COPY. RLB) (Dkt'd 12/19/88).
	22	Filed defendant's proposed jury instructions (Count 1) (CITED COPY. RLB) (Dkt'd 12/19/88).



DATE	NR.	PROCEEDINGS
12/08/88	23	—DFT'S EX PARTE APP FOR ORD PERM DFT TO WEAR CIVILIAN CLOTHES AT TR. RLB (Dkt'd 12/19/88).
	24	Order filed (ORD PROVIDING CIVILIAN CLOTHES. RLB) (JUDGE MARSHALL) (Dkt'd 12/19/88).
	25	Status hearing held (STAT CONF: SET FOR TR 12/13 9:30AM. GV CNSL TO SUB PROP ORD EXCLUD TI. SE—RLB) (JUDGE MARSHALL) (Dkt'd 12/20/88).
	25	Trial date continued to 12/13/88 @ 9:30 AM (Count 1) (JUDGE MARSHALL) (Dkt'd 12/20/88).
12/13/88	26	Filed government's proposed jury instructions (Count 1) (Dkt'd 12/20/88).
	27	Filed trial memorandum (Count 1) (GV'S TRIAL MEMO) (Dkt'd 12/20/88).
	28	Motion in limine filed (MOT#3) (Count 1) GV'S MOT IN LIMINE TO ADMIT EVID OF OTHER CRIMES. RLB) (Dkt'd 12/20/88).
	29	Filed transcript of proceedings for 10/31/88 (Dkt'd 12/21/88).
	30	—RECPT FOR RPTR'S TRANSC OF 10/31/88. RLB (Dkt'd 12/21/88).
	31	Filed government's proposed jury instructions (Count 1) (Dkt'd 12/21/88).
	36	Voir dire begins-jury (Count 1) (Dkt'd 02/04/89).
	36	Trial begins-jury (Count 1) (Dkt'd 02/04/89).

DATE	NR.	PROCEEDINGS
12/13/88	36	Trial held-jury (Count 1) (J/T 1ST DY: J SWN & IMP. J/T CONT'D. DS-RLB) (JUDGE MARSHALL) (Dkt'd 02/04/89).
	36	Jury trial continued to 12/13/88 (Dkt'd 02/04/89).
12/14/88	37	Trial held-jury (Count 1) (J/T 2ND DY: CNSL MK OPNG STMT. PRTYS REST. REBUTTAL BY GV. PRTYS REST. DFT MOT FOR JQ DEN. J/T CONT'D. DS—RLB) (JUDGE MARSHALL) (Dkt'd 02/04/89).
	37	Jury trial continued to 12/15/88 @ 8:00 AM (3RD DY) (JUDGE MARSHALL) (Dkt'd 02/04/89).
	32	Filed defendant's proposed jury instructions (Count 1) (MARKED SET, SUPPL. RLB) (Dkt'd 12/21/88).
	33	Filed defendant's proposed jury instructions (Count 1) (CLEAN SET, SUPPL. RLB) (Dkt'd 12/21/88).
12/15/88	38	Trial held-jury (Count 1) (J/T 3RD DY: CT INST JY. MATRN SWN. J/RETIREES TO DELIB, 9AM. CNSL STIP & CRT ORDS EXHBTs 2 & 6 MAY BE RELEASED TO CASE AGENT LIPSCOMB. 12:25PM J/ TRND W/VERDICT OF GUILTY. J/ POLLED. BR-RLB) (JUDGE MARSHALL) (Dkt'd 02/06/89).
	38	Trial ends-jury (Count 1) (Dkt'd 02/06/89).
	38	Jury verdict of guilty (Count 1) (JUDGE MARSHALL) (Dkt'd 02/06/89).
	38	Order cause referred to the probation department for a pre-sentence investigation (Count 1) (JUDGE MARSHALL) (Dkt'd 02/06/89).

DATE	NR.	PROCEEDINGS
12/15/88	38	Sentencing set for 01/23/89 @ 1:30 PM (Count 1) (JUDGE MARSHALL) (Dkt'd 02/06/89).
	39	—FLD JURY VERDICT. RLB (Dkt'd 02/06/89).
	40	Jury notes filed (NOTE #1. RLB) (Dkt'd 02/06/89).
	41	Jury notes filed (NOTE #2. RLP) (Dkt'd 02/06/89).
	42	Exhibit list filed (Count 1) (Dkt'd 02/06/89).
12/28/88	35	—COURTS INSTRUCTIONS, RLB (Dkt'd 01/03/89).
01/18/89	43	Order filed (MIN ORD: SENT CONT'D TO TO 2/6/89 AT 2:00PM. RLB) (JUDGE MARSHALL) (Dkt'd 02/06/89).
	43	Sentencing continued to 02/06/89 @ 2:00 PM (Count 1) (JUDGE MARSHALL) (Dkt'd 02/06/89).
02/06/89	44	—FLD LETTR RE:SENT LETTER: KKG (Dkt'd 02/10/89).
	45	Sentencing continued to 02/08/89 @ 1:30 PM (Count 1) (JUDGE MARSHALL) (Dkt'd 02/15/89).
02/09/89	46	Sentencing of defendant (Count 1) (SENT A/G 12 MOS, 3 YRS SURV REL, UPON CONDS: NOT COMMIT ANY FUR LAW VIOL, COMPLY W/R&R OF P/D &80225, COMPLY W/RULES OF INS, NOT RE-ENTER USA W/O, PERMISSION OF INS, IF REENTERS USA MUST RPT TO PO W/IN 48 HRS, PAY \$50.00 PEN ASSESSMENT. PAYMENT OF PEN ASSESSMENT STAYED. DFT TO REC CREDIT FOR TI SERVED. DFT INFORMED OF RIGHT TO APPEAL. KKG) (JUDGE MARSHALL) (Dkt'd 02/15/89).

DATE	NR.	PROCEEDINGS
02/10/88	47	Filed notice of appeal (Count 1) (APPL#1) (FLD DFT NOTC OF APPEAL FRM J/M ENT 2-8-89. KKG) (JUDGE MARSHALL) (Dkt'd

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

No. 89-50060

U.S.

v.

ALVAREZ-SANCHEZ

DOCKET ENTRIES

DATE	PROCEEDINGS
2/22/89	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. Filed in D.C. on 2/17/89; (RT required: y) (Sentence imp 12 months) [89-50060] transcript shall be ordered by 3/8/89; transcript shall be filed by 4/7/89; appellants' briefs, excerpts due by 5/17/89; appellee's brief due 6/16/89 for USA; appellants' reply brief due 6/30/89. (kn)
8/11/89	Filed Appellant Pedro Alvarez-Sanchez's motion to extend time to file appellant's opening brief until 9/15/89 [89-50060] served on 8/9/89 [1645854] [89-50060] (ec)
8/15/89	Filed order (Deputy Clerk: mlm) Aplt informs this court that the transcripts were recvd May 17, 1989. DC is requested to issue COR promptly or inform this court of any barrier to its issuance . . . Aplt's motion to extend time to file appellant's opening brief is granted. The opening brief and excerpts are due Sept. 15, 1989. Absent truly ex-

DATE	PROCEEDINGS
8/15/89	traordinary circumstances, no further ext of time to file this brief will be granted . . . Aple's brief due Oct 16, 1989. Optional reply brief due Oct 30, 1989. Aplt is informed that this court employs fixed due dates for briefing schedules, and that failure of the timely completion of a previous step does not automatically vacate subsequent deadlines. This order is subj to reconsideration. . . . [89-50060] (ec)
9/6/89	Filed CRIMAT certificate of record on appeal RT filed in DC: 12/13/88. [89-50060] (jhc)
9/15/89	Filed original and 15 copies Appellant Pedro Alvares Sanchez opening brief 30 pages, and five excerpts of record in 1 volume; served on 9/13/89 [89-50060] (ec)
10/13/89	10 day oral extension by phone of time to file USA's brief. [89-50060] appellees' brief due 10/26/89; appellants' reply brief due 11/9/89; (pq)
11/28/89	Filed aple's brief (10 pgs) original + 15 copies (11/20) [89-50060] (dmd)
2/26/90	Calendar check performed [89-50060] (th)
3/1/90	Screening letter sent. [89-50060] (th)
7/5/90	FILED, AS OF 9/6/89, CERTIFIED RECORD IN APPEAL IN 3 VOLS. (TOTAL): 2 CLERKS REC-1 RTS (ORIG) [89-50060] [89-50060] (jw)
8/20/90	SUBMITTED TO SCREENING PANEL 126. [89-50060] [89-50060] (th)
8/20/90	Removed from screening calendar. Parties notified. [89-50060] [89-50060] (th)
8/24/90	Calendar check performed [89-50060] (aw)
8/26/90	Calendar materials being prepared. [89-50060] [89-50060] (aw)



DATE	PROCEEDINGS
8/27/90	Received Appellee USA letter dated Aug 21, 1990 informing that she will be unavailable from Oct 1-31 (will get married) [89-50060] (ec)
9/26/90	CALENDARED: PASADENA, Nov. 9, 1990, 9:00 am Courtroom 1 [89-50060] (aw)
11/9/90	ARGUED AND SUBMITTED TO: NELSON, REINHARDT, Price [89-50060] (jhc)
9/15/92	FILED OPINION: VACATED, REVERSED AND REMANDED FOR FURTHER PROCEEDINGS (Terminated on the Merits after Oral Hearing; Other; Written, Signed, Published. Dorothy W. NELSON; Stephen R. REINHARDT, author; Edward D. Price, dissenting.) FILED AND ENTERED JUDGMENT. [89-50060] (ck)
9/24/92	Filed motion of Appellee for ext of time to file petition for rehearing until 10/29/92 and deputy clerk order: (Deputy Clerk: ec) granting motion. Subj to reconsideration. . . . [2213792-1] petition for rehearing due 10/29/92; (Motion recvd 9/22/92) [89-50060] (Panel) (ec)
9/24/92	notice of appearance of Mark D. Larsen as counsel for USA [89-50060] (ec)
9/24/92	notice of appearance of Dennis Landin as counsel for Pedro Alvarez Sanchez [89-50060] (ec)
10/29/92	[2234618] Filed original and 40 copies Appellee USA petition for rehearing with suggestion for rehearing en banc 15 p.pages, served on 10/28/92 (Panel; active judges) [89-50060] (ec)
1/22/93	Filed order (Dorothy W. NELSON, Stephen R. REINHARDT, Edward D. Price,): denying petition for enbanc rehearing and rejecting the petition for rehearing en banc. [2234618-1] [89-50060] (tsp)

DATE	PROCEEDINGS
4/19/93	Recvd ltr from SC re: cert has been filed. (case file) [89-50060] (tsp)
4/21/93	MANDATE ISSUED [89-50060] (tsp)
5/20/93	Received notice from Supreme Court: petition for certiorari filed Supreme Court No. 92-1812 filed on May 13, 1993. [89-50060] (ec)
10/15/93	Received notice from Supreme Court, petition for certiorari GRANTED on 10/12/93 (ah)

CRIMINAL COMPLAINT

<b>United States District Court</b>		<b>DISTRICT CENTRAL DISTRICT OF CALIFORNIA</b>	
<b>UNITED STATES OF AMERICA</b> <b>V.</b>		<b>DOCKET NO.</b>	
<b>PEDRO SANCHEZ ALVARES</b>		<b>MAGISTRATE'S CASE NO.</b> <b>88-1102m</b>	
<b>Complaint for violation of Title 18 United States Code § 472</b>		<b>FILED</b> <b>SEP 1 1988</b> <b>U.S. DISTRICT COURT</b> <b>CENTRAL DISTRICT OF CALIFORNIA</b> <b>LOS ANGELES, CA</b>	
<b>NAME OF JUDGE OR MAGISTRATE</b> <b>CHARLES F. EICK</b>		<b>OFFICIAL TITLE</b> <b>United States Magistrate</b> <b>LOCATION</b> <b>CLERK, U.S. DISTRICT COURT</b> <b>CENTRAL DISTRICT OF CALIFORNIA</b> <b>DEPUTY</b>	
<b>DATE OF OFFENSE</b> <b>8/5/88</b>	<b>PLACE OF OFFENSE</b> <b>LOS ANGELES COUNTY</b>	<b>ADDRESS OF ACCUSED (if known)</b>	
<p><b>COMPLAINANT'S STATEMENT OF FACTS CONSTITUTING THE OFFENSE OR VIOLATION:</b></p> <p>Defendant PEDRO SANCHEZ ALVARES, with intent to defraud, kept in his possession and custody 113 counterfeit \$20 Federal Reserve Notes, falsely made, forged, and counterfeit obligations of the United States, as the defendant then and there well knew.</p>			
<p><b>BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED:</b></p> <p>(See attached affidavit which is incorporated as part of this Complaint)</p>			
<p><b>MATERIAL WITNESSES IN RELATION TO THIS CHARGE:</b></p>			
<p>Being duly sworn, I declare that the foregoing is true and correct to the best of my knowledge.</p>		<p><b>SIGNATURE OF COMPLAINANT (if known)</b> <b>STEVE PROCTOR</b> <b>OFFICIAL TITLE</b> <b>Special Agent - USSS</b></p>	
<p>Sworn to before me and subscribed in my presence.</p>		<p><b>DATE</b> <b>August 9, 1988</b></p>	
<p><b>SIGNATURE OF MAGISTRATE (1)</b></p>			

**FILED 03:03 C**  
**SEP 1 1988**  
**U.S. DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**LOS ANGELES, CA**

### AFFIDAVIT

I, Steve Proctor, being duly sworn and under oath, hereby depose and say:

1. I am a Special Agent (SA) of the United States Secret Service (USSS). I have been a Special Agent for ten (10) years. I am currently assigned to the Los Angeles Field Office, Counterfeit Squad. I have had formal training in the identification of counterfeit currency.

2. This affidavit is made in support of a complaint charging PEDRO SANCHEZ ALVARES with violation of Title 18, United States Code, Section 472, Possession of Counterfeit Obligations of the United States.

3. On August 8, 1988, SA Paul Lipscomb advised me that he received a telephone call from Deputy John McCann of the Los Angeles County Sheriff's Narcotics Unit, who stated as follows:

a. On August 5, 1988, subsequent to a search warrant being executed at 3025 Frazier Avenue, Apartment D, Baldwin Park, California, Pedro Sanchez Alvares was taken into custody for possession of one hundred thirteen (113) counterfeit \$20 Federal Reserve Notes (FRNs). Deputy McCann further stated that the counterfeit notes were found wrapped in a brown bag in the right front pocket of a jacket, hanging in a closet in Alvares' apartment. McCann stated that Alvares told him that the clothing in the closet belonged to him. McCann also stated that he had rented receipts with Alvares' name on them.

5. On August 8, 1988, SA Lipscomb informed me that he had examined the one hundred thirteen (113) notes referred to above and that he determined them to be counterfeit. SA Lipscomb also advised me that he interviewed Pedro Alvares at the Industry Sheriff's Station with the assistance of Deputy Abraham Hernandez, a fluent Spanish speaker. SA Lipscomb advised me that on August 8, 1988, Deputy Hernandez advised Pedro

Alvares stated of his Constitutional Rights per Miranda, and that Pedro Alvares that he understood his rights, and agreed to answer questions; that Alvares admitted that he obtained the counterfeit money from a Jose Reyes and that he and Reyes counted the notes and separated the good quality notes from the bad quality notes, in Alvares' apartment. SA Lipscomb told me Alvares further stated that he was the owner of the jacket where the counterfeit money was found.

/s/ Steven Proctor  
STEVEN PROCTOR  
Special Agent—USSS

Sworn and subscribed to before me  
on this 9th day of August, 1988

/s/ Charles F. Eick  
United States Magistrate

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

June 1988 Grand Jury

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CR 88-671

UNITED STATES OF AMERICA, PLAINTIFF

v.

PEDRO SANCHEZ-ALVAREZ, DEFENDANT

---

INDICTMENT

[Filed Aug. 19, 1988]

[18 U.S.C. § 472: Possession of Counterfeit  
Government Obligations]

The Grand Jury charges:

[18 U.S.C. § 472]

On or about August 5, 1988, in Los Angeles County, within the Central District of California, defendant PEDRO SANCHEZ-ALVAREZ, acting with intent to defraud, kept in his possession and custody 113 counterfeit twenty dollar (\$20) Federal Reserve Notes, falsely made, forged, and counterfeited obligations of the United States, as the defendant then and there well knew.



## A TRUE BILL

Foreperson

ROBERT C. BONNER  
United States Attorney

ROBERT L. BROSI  
Assistant United States Attorney  
Chief, Criminal Division

MANUEL A. MEDRANO  
Assistant United States Attorney  
Acting Chief, Criminal Complaints

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

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CR88-671-CBM

UNITED STATES OF AMERICA, PLAINTIFF

vs.

PEDRO ALVAREZ SANCHEZ, DEFENDANT

---

**MOTION OF DEFENDANT TO SUPPRESS  
STATEMENTS SEIZED IN VIOLATION OF MIRANDA  
FOR JACKSON v. DENNO HEARING TO  
SUPPRESS STATEMENTS**

---

BEFORE THE HONORABLE CONSUELO B. MARSHALL

Monday, October 31, 1988

---

APPEARANCES:

*On behalf of the Government:*

JIMMYE SANCHEZ WARREN  
United States Attorney  
1200 United States Courthouse  
312 North Spring Street  
Los Angeles CA 90012

*On behalf of the Defendant:*

Carol Klauschie  
Federal Public Defender  
1503 United States Courthouse  
312 North Spring Street  
Los Angeles CA 90012

## ALSO PRESENT:

Paul J. Lipscomb  
Special Agent, Secret Service

Irma Lourdes Garcia, Interpreter

---

Los Angeles, California, Monday, October 21, 1988

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[3] THE CLERK: Item No. 22, Criminal Number 88-671, United States of America versus Pedro Alvarez Sanchez.

Appearances, counsel.

MS. WARREN: Good afternoon, Your Honor. Jimmye Sanchez Warren appearing on behalf of the United States. With me at counsel table is Special Agent Paul Lipscomb, U.S. Service.

THE COURT: Good afternoon.

MR. LIPSCOMB: Good afternoon.

MS. KLAUSCHIE: Good afternoon, Your Honor. Carol Klauschie on behalf of Mr. Alvarez, who is present and has the assistance of a Spanish-speaking interpreter.

THE COURT: Good afternoon.

MS. KLAUSCHIE: Good afternoon.

THE COURT: The interpreter's name for the record, please.

THE INTERPRETER: Irma Lourdes Garcia.

THE COURT: And the language is Spanish?

THE INTERPRETER: Spanish, yes.

THE COURT: All right. The matter is here for a motion this afternoon, and the parties have filed certain points and authorities. Just for the record, [4] I'll indicate to you what I have because it appears that some things have been filed that the Court does not have.

I have the notice of motion and motion for *Jackson v. Denno* hearing that was filed on September 23rd by the defense. And then I have a motion to suppress statement seized in violation of Miranda points and authorities filed on the same date, September 23, by defense, the Government's opposition to the motion to suppress evidence, memorandum of points and authorities and declaration.

And then I also have a response to the motion of the *Jackson v. Denno* hearing filed on October 14th. And then filed on October 27th by the Government is a supplemental opposition to the Defendant's motion for *Jackson v. Denno* hearing.

Now, I understand that the defense has filed something subsequent to your initial filings as well, but it hasn't made it to my file. And we looked very quickly to see if we could find it and we have not, but I'm sure that counsel could provide the Court with an extra copy of the subsequent—

MS. KLAUSCHIE: Your Honor—

MS. WARREN: Your Honor, if there's something additional that's been filed by the defense, I have not received it either.

[5] MS. KLAUSCHIE: Your Honor, it's a reply to the Government's opposition filed October 20th. And I think that the Court did receive it but you didn't.

MS. WARREN: Oh, okay.

MS. KLAUSCHIE: Your Honor, I apologize. I've asked that a courtesy copy be delivered to your Honor's chambers because of the short filing schedule. I did file a reply to the Government's opposition on October 20th pursuant to your request. I don't have an extra copy, but I'd be pleased to allow you to use mine, and I will certainly supply copies later.

May I approach?

THE COURT: You may.

I probably couldn't read it and listen at the same time, so why don't we do this. Why don't we proceed since it's

going to be an evidentiary hearing, and I'll hear all of the testimony. And then if time permits, I will review the copy that I don't have or, if necessary, take it under submission so that I can review that.

I should indicate that I do have—I'm not sure if it's one case or more than one that the clerk gave me this afternoon that apparently was provided to the clerk, I assume, by the defense. Am I correct?

MS. KLAUSCHIE: That's correct, your Honor.

THE COURT: Okay. All right. I'll permit [6] defense counsel to be heard.

MS. KLAUSCHIE: Your Honor, I think I can make things very simple very quickly. I have an interest in questioning Mr. Lipscomb on a few matters, but beyond that I'm prepared to submit on the declarations that counsel have provided and the exhibit which, unfortunately, you do not have before you, which I attached to my reply paper. That exhibit is a copy of the complaint with the supporting affidavit that was filed in this matter when Mr. Alvarez was first brought to your court.

With that understanding, I'm prepared to proceed—I'm prepared to submit on my motion regarding the Miranda issue. And the evidence that I'd like to elicit from Mr. Lipscomb has only to do with the issue as to delay under 18 U.S.C. 3501.

THE COURT: All right. So counsel would stipulate that the declarations attached to your points and authorities may be received into evidence as the direct testimony of the witnesses or the declarants?

MS. KLAUSCHIE: Yes, your Honor.

THE COURT: And the Government would so stipulate?

MS. WARREN: Yes, your Honor.

THE COURT: All right. So, apparently counsel [7] would like to call the agent first, and he'll come forward.

THE CLERK: Please raise your right hand.

PAUL J. LIPSCOMB, GOVERNMENT'S WITNESS,  
SWORN

THE CLERK: Please be seated. Would you please state your name for the record and spell your last name.

THE WITNESS: Paul J. Lipscomb, L-i-p-s-c-o-m-b.

THE COURT: And the Court does have a copy of Mr. Lipscomb's declaration.

### CROSS-EXAMINATION

BY MS. KLAUSCHIE:

Q. Mr. Lipscomb, what is the distance from the Industry sheriff's office to the courthouse; is that approximately 20, 25 miles?

A. At least, ma'am, yes.

Q. So that would be about a 20-minute to a half-hour drive?

A. Depending on traffic.

Q. And the traffic would depend on—the traffic on the Pomona freeway, isn't that the direct route from that sheriff's station to the courthouse?

[8] A. Yes, ma'am.

Q. Does the Secret Service field office—that's located at the 300 North Los Angeles Street building across the street from from us; is that correct?

A. Yes, ma'am.

Q. And the office there is on the fourth floor, the Secret Service—

A. Yes, ma'am.

Q. —office?

There was a phone available to you at the Industry sheriff's office, is that correct, during the time that you were over there—

A. Yes, ma'am.

Q. —receiving evidence?

And while you were there, you didn't make any attempts to call the United States Attorney's office, did you?

A. I did not.

Q. You're aware that a United States Attorney is always on duty to receive incoming phone calls and information about complaints from officers; isn't that correct?

A. Yes, I am.

Q. During the questioning that occurred there, there were four law enforcement persons present; isn't [9] that true?

A. Yes, ma'am.

Q. There was no attorney present for Mr. Alvarez.

A. No, ma'am.

Q. And the questioning that occurred there concerned both counterfeit money as well as narcotics; isn't that correct?

A. Yes, ma'am.

Q. Was the car that you drove in to the Industry sheriff's station the same car that you drove back to your office in after you were done questioning Mr. Alvarez?

A. Yes, ma'am.

Q. Did you have any problems with the car in terms of operating or transportation problems?

A. No, ma'am.

Q. Mr. Hernandez was the person who did the interpreting for the officer; is that correct?

A. Yes, ma'am.

Q. He is the fluent speaker among the four of you—

A. Yes, ma'am.

Q. —in Spanish.

None of the rest of you are fluent speakers in Spanish?

[10] A. No, ma'am.

MS. KLAUSCHIE: You Honor, I have no further questions.

THE COURT: Any redirect by Government counsel?

## REDIRECT EXAMINATION

BY MS. WARREN:

Q. Agent Lipscomb, do you remember about how long it took you to make that drive to the City of Industry?

A. Somewhere between 40 and 55 minutes because of the amount of traffic that afternoon.

Q. That was on your return from the City of Industry sheriff's office to—or police department to your office at Los Angeles Street; is that correct?

A. Yes, ma'am.

Q. Okay. Did you call the U.S. Attorney's office sometime on the 8th to inquire regarding the issuance of a complaint against this Defendant?

A. I did.

Q. About when did you do that, do you remember?

A. In the mid to latter part of the afternoon of the 8th.

Q. Did you obtain permission from the U.S. Attorney's office to prepare a complaint against Mr. Alvarez Sanchez?

[11] A. I did.

Q. Did you also make inquiry to determine whether if you had time to adequately process Mr. Alvarez Sanchez—prepare a complaint and affidavit—whether he could be brought before the Magistrate for arraignment that afternoon?

A. Yes, ma'am, I did. I placed a call to the Clerk's office, advised them of what I had. The clerk told me at that time that there was not room on the calendar that afternoon and to bring the Defendant before the Magistrate the first thing the following morning, that would be the 9th of August.

Q. For clarification, which clerk are you talking about?

A. The criminal clerk here in the—on the Main Street office of this courthouse.



Q. In the Clerk's office then, isn't it?

A. Yes, ma'am.

Q. Not the U.S. Attorney's office?

A. No, ma'am.

Q. Okay. At any point during the time that Mr. Sanchez was being interviewed, did he request counsel?

A. He did not.

Q. At any time did he say that he wished the interview to proceed no further?

[12] A. He did.

Q. And what happened at that point?

A. We terminated—excuse me. I terminated the interview.

MS. WARREN: I have no further questions, Your Honor.

THE COURT: Anything further?

MS. KLAUSCHIE: Your Honor, that's—

MS. WARREN: Oh, I'm sorry. There is one line of questioning I forgot, your Honor, if I may.

THE COURT: Yes.

BY MS. WARREN:

Q. Agent Lipscomb, can you briefly describe to the Court the procedure that is followed in the preparation and filing of a complaint and taking of a defendant before the Magistrate for arraignment.

A. Yes, ma'am. Briefly, when a person is taken into custody by an outside agency, meaning not the Secret Service, an agent—in this case myself—is sent to the particular agency wherein we meet with the investigators and discuss the case at that time.

In this case, as in all cases, I then interviewed the suspect in the case. At that point in time we took the Defendant into custody and transported him to the L.A. field office. While at the L.A. field [13] office, an extensive preparation, such as a criminal history, fingerprints, photographs, as well as an interview, if in fact the per-

son in custody at that time desires to be interviewed—in this case the Defendant did not and we did not interview him—but an extensive criminal history was taken—excuse me, ma'am—a personal history was taken from him. This took a little longer than usual because of the fact that I do not speak Spanish fluently and the Defendant does not speak English fluently.

At that time the defendant is then taken to L.A.P.D. Parker Center and housed overnight in case of an arraignment occurring on the following day. The defendant is picked up from L.A.P.D. Parker Center and then taken to the marshal's lock-up where he is reprocessed there and held until he is taken before the Magistrate assigned for the arraignment.

Q. I want to take you back in the procedure that you've just described and ask you to direct your comments not to what happened to Mr. Alvarez Sanchez, but to the procedures necessary, as you understand them as a Secret Service agent, for filing of a complaint.

From the point where you arrest an individual and take that person into custody, what is the next step in your procedure in preparing to bring that person [14] before a Magistrate for arraignment?

A. A complaint is prepared by the case agent. It is then given to a supervisor to review, and then is given to the secretaries in the Counterfeit Squad to type up. It is then re-reviewed by the case agent and the supervisor, and then taken to the U.S. Attorney's office for presentation for the filing.

Q. Is it possible to take someone in for presentation for arraignment before the Magistrate before a complaint has been prepared and filed?

A. No, ma'am.

Q. On the day that you arrested Mr. Alvarez Sanchez, do you remember approximately how long that booking procedure at the Secret Service office took?

A. On that date it would have to be, oh, approximately three to three and a half hours.

Q. Did you have to obtain someone to translate your questions to Mr. Alvarez and his responses?

A. I did.

MS. WARREN: I have no further questions, your Honor.

THE COURT: Anything further from the defense?

### RECROSS-EXAMINATION

BY MS. KLAUSCHIE:

Q. Mr. Lipscomb, when you interviewed Mr. [15] Alvarez, you did that for the purpose of obtaining a confession; isn't that correct?

A. I'm not sure of your question, ma'am. At what time?

Q. At the time you interviewed him at the Industry sheriff's station, after you arrived, after you obtained the counterfeit notes, after you had met with Deputy Hernandez and McCann as you've described in your declaration, you then interviewed—Mr. Alvarez was then interviewed; is that correct?

A. Through Deputy Hernandez, yes.

Q. That's correct. And the reason that you did that was in order to obtain a confession from him; wasn't that your purpose?

A. No, ma'am.

Q. Your purpose in interviewing him was not to obtain incriminating statements?

A. At that time, no, ma'am.

Q. When you called the U.S. Attorney's office, you were already at the Secret Service field office; isn't that correct?

A. Yes, ma'am.

Q. So that was already after you left the Industry sheriff's station?

A. Yes, ma'am.

[16] Q. And when you called the Clerk's office to find out about the Magistrate's calendar, it was already 4:00 in the afternoon; isn't that correct?

A. No, ma'am. It was much earlier than that, by—I would say an hour and a half to two hours.

Q. So approximately what time did you call the Clerk's office?

A. Between 2:00 to 2:30 in the afternoon.

Q. Was there a supervisor on duty at the Street Service office the afternoon of Monday, August 8th?

A. Yes, ma'am.

Q. And was there a secretary on duty the afternoon of Monday, August 8th?

A. Yes, ma'am.

Q. The affidavit in support of the complaint in this case is no more than four paragraphs; isn't that correct?

A. Yes, ma'am.

MS. KLAUSCHIE: Thank you. I have nothing further.

THE COURT: Anything further from Government's counsel?

MS. WARREN: Nothing further, your Honor.

THE COURT: All right. You may step down.

THE WITNESS: Thank you.

[17] THE COURT: Any further witnesses from the defense?

MS. KLAUSCHIE: No, your Honor.

THE COURT: Any further witnesses for the Government?

MS. WARREN: If I may have one moment, your Honor.

(Pause in proceedings.)

MS. WARREN: Nothing further, your Honor.

THE COURT: Both sides rest, then, as far as presentation of evidence?

MS. KLAUSCHIE: Yes, your Honor.

MS. WARREN: The Government rests, your Honor.

THE COURT: All right. Counsel wish to be heard in argument?

MS. FLAUSCHIE: Your Honor, again I apologize that the Court did not receive my reply papers. I believe that those papers bring to light the focus of what my argument is in regards to the voluntariness issue.

Your Honor, it is our position that the Government has not met its burden of proof under the preponderance of evidence standard in regards to the strictures of 18 U.S.C. 3501(c) which, in particular, pertains to the admissibility of confessions, both in [18] terms of the traditional voluntariness issues, as well as for purposes of delay.

And in my papers I specifically address the issue of delay. And I did include a copy of a recent case by the Court of Appeals, *United States v. Wilson* which is, in my opinion, directly on point in this matter.

Your Honor, in the *Wilson* case, very similar to this case, a defendant was in custody for a significant amount of time before the arrest—excuse me, before an interview was conducted and the person was brought before the Magistrate for arraignment.

So that we don't get confused as to what the focus needs to be under this kind of test, the first question in deciding whether or not a confession is admissible pursuant to 3501 is whether or not the delay in bringing the person before a Magistrate was unreasonable. And the statute specifically says that a delay will not be held inadmissible if—or a statement will not be held inadmissible if the delay in bringing the defendant before a Magistrate is six hours or less from the time of arrest. If it's more than six hours, then the Court must look to the reason for the delay and may consider various factors. But the statute specifically says that a delay over six hours will not be [19] unreasonable where the Government has shown that the delay is caused by transportation problems.

In this case, your Honor, my client was in custody for over—almost 72 hours at the time that he was interviewed by the officers in this case. And the officers consisted of, pursuant to their declarations, two Los Angeles county sheriffs, one detective and a deputy sheriff, and two Secret Service agents.

The case law that I've provided to your Honor today as well as the *Halbert* case, which the Government cites in its reply, both state that the time in custody that is to be looked at in determining what delay counts is the time from arrest, detention. It doesn't matter whether the arresting agency is a state or local agency or federal agency.

So despite the fact that there was not a complaint filed, despite the fact that the federal agent did not have a complaint at the time he interviewed my client is not dispositive, because the time of filing the complaint is not the operative time. It's not the operative fact.

In fact, in the *Wilson* case which I will provide a copy of, your Honor. And for the record, I should tell you what that citation is. It's 838 F.2d 1081, a Ninth Circuit 1988 case, the defendant was in [20] custody for a shorter period of time than Mr. Alvarez was in custody. I believe it was only about 22 hours.

He was arrested on a tribal assault charge, and he was held in custody overnight by the tribal authorities, and he was to be presented to a Magistrate the next morning on the tribal assault charge. And that arraignment was postponed to allow federal F.B.I.—the F.B.I. agents to come in and interview him. And the arraignment then was scheduled after the interview was over. And that interview happened and the arraignment happened within an afternoon's time.

He was later charged with a federal offense, and under the facts of that—under those circumstances, the Ninth Circuit held that that delay was unreasonable. The Ninth Circuit specifically found that the delay was for no other



reason than to obtain incriminating statements and confession. And I submit to your Honor that that's essentially what happened here.

In my reply papers, and I cite evidence that was available to the officers pursuant to the affidavit submitted by special—by Secret Service Agent Proctor, who was the agent who filed the affidavit in this matter, that the Secret Service was aware of several facts at the time that they arrived at the Industry Street—Industry station to look at the counterfeit money and subsequently [21] to interview my client.

The information that was available to them pursuant to the affidavit was as follows. And I will read this for your Honor, because your Honor doesn't have the benefit of my papers:

"They were notified that on August 5th, 1988, pursuant to a search executed at 3025 Frazier Avenue, Apartment D, in Baldwin Park, California, Mr. Sanchez was taken into custody for possession of 113 counterfeit twenty dollar Federal Reserve Notes." And I am reading verbatim from the affidavit.

"Deputy McCann further stated that the counterfeit notes were found wrapped in a brown bag in a right front pocket of a jacket hanging in a closet in Alvarez' apartment. McCann stated that Alvarez told him the clothing in the closet belonged to him. McCann also stated that he had rent receipts with Alvarez' name on them."

That information was conveyed to the Secret Service agent at some point the morning of Monday, August 8th. Again, three days after my client was arrested on the state offense pursuant the execution of a search warrant.

"When the Secret Service arrived at the Industry station"—according to Mr. Lipscomb's [22] declaration that happened between 11:00, 11:30 in the morning on Monday, August 8th—"at that point in time he met with the

deputies from the sheriff's office and he received the counterfeit notes that were found."

So even before he had met my client, he had received the counterfeit money, he had the information that had been conveyed to the Secret Service office through the sheriffs. And at that point, it's my position, your Honor, that he had sufficient information to go to the United States Attorney if he had been interested in proceeding with the statutory duty of bringing a person before a Magistrate at the earliest possible convenience.

Now I recognize that a person can't go right before a Magistrate on the whim of the defendant, there are some procedures that need to be followed. But there was nothing that prevented this office from calling the United States Attorney to tell them that Mr. Alvarez was in custody and that they had confirmed that the counterfeit was there.

They came to the Industry station with information that he had already made admissions, whether those were true or false is not at issue here, but nonetheless, they had that information. I see that there was no reason for him not to go forward with the [23] information he had, but for to obtain the incriminating statements from Mr. Alvarez at the time of the interview.

Even assuming that the time of travel from the Industry station to the federal courthouse would have been the same at 12:00 noon or 12:30 if he had left right after he had this information from the sheriffs, he would have been able to make it back to his office, which is no more than a block away from the courthouse, within a couple of hours and be able to get the paperwork and proceed.

I don't think it's an excuse for the officer to say that the clerk wouldn't allow him to proceed. The statute doesn't contemplate that a person cannot be arraigned after a 72-hour delay simply because there's a crowded calendar.



The U.S. Attorney has an obligation, just as law enforcement does, to follow through with the statutory procedures, and the Wilson case speaks to that in very strong language.

In the Wilson case, Judge Goodwin, who is the author of the opinion, states specifically in a note that "We would not sanction delay of any kind and continue to scrutinize for reasonableness delays over six hours which are not made necessary by transportation problems."

The evidence is clear here that there was no [24] problem with transportation. The cars worked; there was no problem with secretaries; there was no problem with supervisors to review the paperwork; no problem with the phone not being available to call in and notify in advance any persons necessary to get the paperwork rolling; no problem with contacting United States Attorney's office. No problem with doing it the next morning after Mr. Alvarez spent yet another night in custody.

Your Honor, I think based on the Wilson case, the delay in this case cannot be deemed to be reasonable under the authority. The Fauche case is consistent with that opinion. And again, under that decision and the Halbert decision, we're not talking about the time that the person is brought into federal custody. That's not the critical fact. The critical fact is when the person is brought in detention.

Your Honor, to further point in the direction of the *Fauche* case where the statement was held to be inadmissible pursuant to 3501 because a delay was unreasonable, in that case the defendant was in custody 20 hours. He had been questioned twice, and at least in one instance there had been a waiver of Miranda rights where the Court had made a finding that, although equivocal, there was a valid Miranda waiver.

[25] In that statement, pursuant to that waiver, the defendant had admitted one bank robbery. He was held in custody overnight, and rather than being brought to

court promptly for the next arraignment calendar, he was picked up late by the F.B.I. agents who were handling the case. And on the way to the courthouse during a 15-minute drive from Parker—from where he was being held to the courthouse, he admitted two additional robberies.

The Court found that that delay in bringing him to the courthouse, where he was not picked up until 11:00 A.M. in the morning and therefore missed the 10:30 A.M. arraignment calendar, was sufficiently unreasonable given the obvious purposes for the delay. And in that case the Court found that the agents had spent the morning trying to investigate other robberies, and that they didn't go pick him up right away the next morning for the sole purpose of being able to question him later.

Your Honor, I'm not saying that it's not within the realm of law enforcement agencies to be able to complete their investigation, and if that includes seeking statements from defendants, then obviously they have the privilege to do that. My point in this case is that this man was already in custody over 72—approximately [26] 72 hours at the time that he was met by these agents.

The case law is clear that the time is attributable to the federal agents and that any delay over six hours can be presumed to be unreasonable unless there's problems with transportation. Again, the pivotal fact is not whether a complaint is filed.

In the Wilson case, Judge Goodwin specifically states that "The purposes embodied in Section 3501 to prevent confessions extracted due to prolonged pre-arraignment detention and interrogations, and to supervise the processing of defendants from as early a point in the criminal process as is practicable, are frustrated when the arraignment of a defendant who has been in custody for more than six hours is further delayed for no purpose other than to allow further interrogation of the defendant." If we continue the policy, the police procedure followed

here, we give officers a free hand to postpone any arraignment until a confession is obtained. And that's not what the legislative intent behind 3501 is.

There are other factors that the Court must take into consideration—excuse me, under the Wilson, Halbert and Fauche authorities which we've cited, the Court can use delay alone to find involuntariness under [27] the statute. That can be the sole basis.

The Court does not—if the Court wishes to move on, there are other factors that can be considered and there are five listed in the statute. The first is delay. The second is whether or not the person is advised of what they are being charged or arrested for.

In this case, as Mr. Lipscomb stated on the witness stand, my client was questioned about both narcotics and counterfeit. There's no evidence that he was advised of what charges he was being questioned about. It seemed to have been a general conversation based on both the circumstances of the arrest warrant and the discovery of the counterfeit money.

Another factor is whether or not the person is adequately advised of the fact that a statement could be used against them, that's the third factor. A fourth factor is whether the suspect is advised of the fact that they have a right to counsel present. And the fifth factor is whether in fact a lawyer is present.

Now in this case, as was true in the Wilson case, some of these factors cut both directions. We have filed a motion for suppression of statements pursuant to Miranda, and I will submit on that based on our papers. But even assuming the Court finds that Mr. Alvarez was sufficiently Mirandized and did intelligently and [28] knowingly waive his rights, the Wilson court states that that is not conclusive.

In fact, in their opinion, the longer a person is in pre-arraignment custody, then the more suspect an adequate waiver of Miranda is. And that's noted on Page 1085—

1086 and 1087 of the opinion where the Judge states: The Government's reliance on a waiver of Miranda rights becomes weaker as the period of pre-arraignment detention increases.

Even assuming that Mr. Alvarez was adequately Mirandized, he did not have a lawyer present, so that the delay in this case was unreasonable. And there is no evidence before the Court that Mr. Alvarez was advised of the charges of which he was being suspected.

And as your Honor knows, and as I know, and as the Government attorney knows, the subject matter of counterfeit money of drugs can encompass a wide variety of offenses from possession to delivery, to transporting, to sales, to all sorts of things. And there's no evidence here that he was advised as to what particular thing and what particular offense he was being questioned in regards to.

Briefly, your Honor, the Government notes a couple of cases in their reply to my response—their response to my reply; the Edwards case, which is a Ninth [29] Circuit case, and the Davis case, which is a Seventh Circuit case. And I briefly point out that in *Edwards*—*Edwards* was distinguished in *Wilson* as well—but in *Edwards* the delay was only seven hours from arrest to arraignment.

And in that case the Court made a specific finding that the delay was reasonable because the defendant was arrested on a reservation, and the nearest Magistrate was 125 miles away in Tucson, Arizona. And that there was sufficient finding of transportation problems and inadequacy of staff to get the defendant to the Magistrate at a more reasonable time.

And the Davis case, I would submit, is not controlling, it's not—certainly not binding on this Court as it's an out-of-circuit case. That aside, the delay in that case was only two hours. That's substantially different than 96 hours which is the time for my client's arrest to when he was arraigned, approximately 96 hours.



Your Honor, in closing, I have also provided to your Honor and to the U.S. Attorney a copy of the *Helmandollar* case, which is a recent case of the Ninth Circuit, which does not specifically deal with the issue before your Honor, but has to do with whether a plea agreement, which the defendant claimed was entered into [30] between he and the Secret Service was enforceable or not.

In that case, the defendant entered a conditional plea based on very, very strong prestatement evidence, and the question was whether or not certain promises that he claimed were made to him were sufficient to bind the Government in terms of a plea. But that case is instructive in this case for the following reasons.

In *Helmandollar* the defendant was arrested and held in custody for approximately 28 hours from the time of arrest until he was brought in before a Magistrate. He was advised of his Miranda rights by the Secret Service agents and repeatedly asserted them. He was questioned to long hours and finally after this discussion about a so-called plea agreement, he did, in fact, make statements that were incriminating to him.

In the response to the Defendant's motion to enforce the plea agreement, the declarations of the Secret Service agents made clear that they did that on purpose, that their reason was to get the source of the counterfeit. The reason was to get to the source before it would—they would not be able to preclude the evidence. And they purposely violated his rights, knowing full well that the exclusion would be available to him if he had chosen to proceed at trial. And the Ninth Circuit, in very strong language, condemned that [31] activity.

I'm not saying that any of the agents in this case were involved in that case, because to my knowledge they were not. But I bring it up for the purpose that the Secret Service is on notice because of that case. They've got to follow the rules, and the rules are to bring a person before a Magistrate, to do whatever it takes within the statutory time frame.

And quite frankly, I—I cannot conceive—I can't think of any reason—and I've thought about this for a couple, three weeks now since we've had the date continued—what reason they needed to talk to my client given the information they had. I've seen complaints in this courthouse on much skimpier information than what the agents knew when they arrived at the sheriff's station approximately 11:30 in the morning on Monday, August 8th.

And I think the evidence is clear that had they—had they been concerned with their—with the statutory duty to bring the Defendant before the Magistrate as soon as possible, there would have been no problem in getting it before the Magistrate.

Certainly if the U.S. Attorney had called the Clerk's office and said: We need this on calendar, this guy's been in custody for 72 hours, there would have been [32] no problem in getting the case on calendar. Certainly if it had been brought to the attention of the Public Defender, it would have been placed on calendar.

Your Honor, unless the Court has questions, I'm prepared to submit on that matter, and I'd love to give the Court a copy of my paper so that you can follow.

THE COURT: All right. I have no questions.

MS. KLAUSCHIE: Thank you.

THE COURT: Government's counsel.

MS. WARREN: Your Honor, under 3501(c)—well, 3501, the primary issue to be determined by the Court is the voluntariness of the confession. 3501(c) establishes a means—well, it was initially passed by Congress, according to all legislative history and as set forth in the cases that have been cited to the Court: in order to prevent courts from holding confessions involuntary, or from suppressing them because of a delay, solely because of a delay, up to six hours. And so the six-hour rule was established to remove the discretion of the Court in using delay as a grounds for suppressing a confession that was given less than six hours after arrest.

The statute then proceeds—and the Ninth Circuit has been very specific in its analysis of this part of the statute—it says that once the six-hour [33] rule—the six hours have passed, that does not mean that the Court then must suppress, it simply grants to the Court that discretion considering the delay. And then the test becomes one of reasonableness: Was the delay reasonable?

It is true that in the Ninth Circuit, unlike almost every other circuit that I could find in doing my research, the time spent in state custody—in a case such as this where a defendant is initially arrested by another agency and then turned over into federal custody—in this circuit alone, that time beginning from state arrest does count in determining the six hours.

However, I suggest to this Court that that time spent in state custody prior to the time that the federal agents even knew Mr. Alvarez existed, or that he was in custody, is a factor to be used by this Court in determining reasonableness. That is, if the Court is—if the test is what was the reasonableness of the actions of the federal agents? They could not have done anything reasonable or unreasonable prior to the time that they even knew the case existed.

And so it seems to me that the Court's analysis of the reasonableness of the delay must begin no earlier than the time that the federal agents learn about [34] the case. Beginning the analysis at that point, what did they do? They—as soon as they knew about the case, as soon as they knew about Mr. Alvarez, they immediately left the Secret Service office and they drove out to the police station where Mr. Alvarez was in custody. They met with the officers who had arrested him, looked at the evidence that was given to them, the counterfeit, and then began to interview Mr. Alvarez—according to the uncontradicted testimony—not for the purposes of obtaining a confession.

And I suggest to the Court that there are many reasons, which the Court in its experience as well as counsel can deduce for such an interview. It is not outside the realms of possibility that Mr. Alvarez could have given the agents information that would have deflected their investigation from him and onto another person. At the time that they began that interview, Mr. Alvarez was in the custody of the police. He was not in federal custody. They could not then have just grabbed him and left after the interview.

And again, it is uncontradicted that he was given his warnings in Spanish, that he understood them, that he voluntarily waived them, that he gave no indication whatsoever that he didn't understand why he was there. In fact, according to Deputy Hernandez' [35] declaration, he volunteered at booking Friday afternoon—or Friday night when he first went in that he was a former police officer from Mexico and he knew what this was about. And that same statement was made during the time that he was being questioned by Detective McCann—

MS. KLAUSCHIE: Excuse me, your Honor. I would object to that reference. I don't see that in Mr. Hernandez' declaration as to any statements made on August 5th.

THE COURT: All right. Counsel's—

MS. WARREN: Oh, excuse me, your Honor.

THE COURT: —objection is noted for the record.

MS. WARREN: Oh, okay.

Certainly, your Honor, whether it was made—those statements were made—and I believe the declaration supports it that they were made during the interview—in short, this Defendant showed absolutely no confusion, he made no effort at all to assert his right to counsel. As soon as he said he didn't want to say any more, the interview was terminated.

At that point, the agent brought him back and began the standard procedure. At that point, they arrested him



and took him into custody, not before. [36] Then, they took about the hour drive, considering traffic, and brought him back to the office. They went through the standard booking procedures that are followed in the case of every defendant. They called to find out if there was time to get him on the afternoon calendar, were told that there was not, and he was presented the next morning.

Your Honor, there are several distinguishing factors between the cases that have been cited by counsel and this case that I think should be brought to the Court's attention. Most specifically, I direct the Court's attention to *U.S. v. Wilson*, which is cited by both counsel in support of their positions. This is the case that was the 1988 case that was cited by Ms. Klauschie. I think it important to note that the Court found there as a matter of fact, based upon the testimony of the agents, that the sole purpose of the delay in arraignment was to allow the agents to obtain a confession. That is certainly not the case in this instance.

There, the defendant was arrested the night before at that point in time on an assault charge, he was held overnight. Arraignment—normal arraignment calendar there began in the afternoon, and the tribal—he was to be arraigned on the tribal charges, not on [37] federal charges, but on the tribal charges that afternoon. And the sergeant testified that he knew he was supposed to be arraigned on the tribal charges then, but intentionally held him for the interview so that the F.B.I. agents could interview him, and then took him up for a private arraignment in chambers after the interview was concluded. That was done solely for the purpose of obtaining a confession, according to the testimony of the sergeant and according to the finding of the Court. There is nothing in this record that would support such a factual finding here.

Even where the delay was unreasonable in *Wilson*, the Court finds that it must still look to the voluntariness of

the confession; that is, the primary, the overriding issue for this Court to determine is voluntariness. That's the primary issue, and that should be the issue that determines the Court's ruling on suppression. There is absolutely no evidence here of anything other than a free, knowing and voluntary waiver of rights and confession that was given in this case.

*Helmandollar*, cited by counsel today, I submit to this Court is very fact-specific. There, the amount of currency that was found was \$3.7 million in counterfeit currency. And the agents testified that they intended to continue questioning regardless of the effect [38] on the eventual suppression of evidence because it was so important to them to find out where that much currency was coming from. There is nothing in this record—first of all, *Helmandollar* doesn't even discuss 3501, it doesn't discuss delay and arraignment, and it doesn't—at all. Those issues are not addressed there.

And secondly, there is nothing to show that there's any relationship between this case and the case so far. *Helmandollar* showed that the agents made a conscious decision to continue questioning, even if it resulted in eventual suppression, because they had what they thought at the time to be a more important issue in mind, to find out where almost \$4 million in counterfeit currency had come from. There's nothing comparable to that in this case at all.

I submit that it's shown just to show that at one point some Secret Service agent violated the rules in talking to a defendant, but it does not show anything about what happened to Mr. Alvarez; no evidence that the same agents are involved. The testimony of Agent Lipscomb is that his—the purpose, the primary purpose of his interview was not to obtain a confession. The statement was made in a free and voluntary manner. There is absolutely nothing to establish anything to the contrary from that.

[39] Mr. Alvarez was told of his rights. He stated that he knew what the interview was about, that he knew what the process was because he was a former police officer in Mexico. And he talked freely and openly for a period of time until they began asking him questions that he chose not to answer, and then he asserted his rights and the interview was terminated.

And I think there's probably nothing in the facts of this case that show more dramatically how voluntary that waiver was than the later assertion of his rights during the interview, and the immediate response of the agents to the assertion of that right. As soon as Mr. Alvarez chose not to answer any more questions, the interview was terminated.

I believe that shows more dramatically than anything else could that Mr. Alvarez knew very clearly what his rights were, that he made an initial waiver of those rights freely and voluntarily and knowingly. And when in his judgment it was no longer to his advantage to waive them, but rather became to his advantage to assert them and he did so, they were honored promptly. Immediately the interview was terminated according to the declarations that were filed. And there's absolutely no evidence in this Court's record to the contrary.

Your Honor, I submit that the, quote, [40] "delayed," close quote, in arraignment here was reasonable given the circumstances. The agents acted promptly, as soon as the interview was terminated, to begin the standard booking procedure, to transport him, to book him, to take the history, to prepare the complaint and affidavit, to call regarding the calendar. And when told to bring him in the next morning, that's what they did. That even if the delay were held by this Court to be unreasonable, the overriding question for this Court to consider, according to *Wilson* and according to the statute, is the voluntariness of the confession. And there is absolutely no evidence in this record to show that this confession was anything other than voluntary.

Your Honor, I direct the Court's attention to Page 1084 of *U.S. v. Wilson*, which is the case cited and relied upon by Defendant. Therein the Court says: Discretion remains in the trial judge under Subsection 3501(b), to exclude confessions as involuntary solely because of delay in arraignment during which a confession is given that exceeds six hours. And I submit to the Court that the confession having been given prior to arrest by federal agents was not given pursuant to a delay or during a delay in arraignment.

I would add that the Court in *Wilson* lists the [41] five statutory factors. It says that those are the primary things to be considered by the Court. First, "the time elapsing between arrest and arraignment if the defendant making the—of the defendant making the confession if it was made after arrest and before arraignment." Two, "Whether the defendant knew the nature of the offense for which he was suspected at the time he was making the confession."

Your Honor, there's no law cited to the Court to show that the defendant has to know the specific charge that's going to be filed. The question is whether the defendant knew the nature of the investigation. And it's clear that he knew that. He knew he was being questioned about drug charges on which he'd been arrested. He knew he was being questioned about the currency which was found in his possession.

Whether or not he was advised or knew that he was not required to make any statement and that such statement could be used against him is Factor Number 3. Clearly he was advised of that, there was both a written and an oral waiver. Clearly he knew he was not required to make a statement because during the interview he decided to terminate the questioning, he decided to stop making his statement, and the interview was terminated.

The fourth factor is whether or not he was [42] advised prior to questioning of his right to the assistance of counsel. It is uncontradicted here that he was so advised,



and that he thought he made a written and an oral waiver of that right.

And finally, whether he was without the assistance of counsel when questioned and when giving such confession. Granted he was without assistance of counsel, but that was by his choice.

Your Honor, we submit that a knowing and voluntary waiver of rights, followed by a voluntary confession, should not be suppressed solely because of the brief delay—if such is found to be here—as a result of following standard procedures in booking, preparation of a complaint and arraignment.

If the Court has no questions, I would submit.

THE COURT: I don't have any questions.

MS. KLAUSCHIE: Your Honor, although the Government would surely like the Court to begin counting the time here for purposes of the strictures of 3501, that's simply not the law. And for your Honor's information, I would cite *U.S. v. Fauche*, which I've provided a copy to you. I believe the relevant page is 1406. And there specifically the Ninth Circuit stated—and this is in part the facts of that case—"the Government contends the District Court erred in [43] aggregating the three hours Fauche spent in federal custody with the 17 hours he spent in local custody in finding unreasonable pre-arraignment delay. The contention fails.

"This Court has explicitly held that pre-arraignment delay caused by federal and local officials should be considered cumulatively under Section 3501(c). The District Court did not err in aggregating Fauche's time in local and federal custody—local and federal custody for purposes of determining unreasonable delay under Section 3501."

It's simply—it's not—it is not correct legal standard to begin calculating the delay at the time the Secret Service agents were notified of Mr. Alvarez and the seiz-

ure of the counterfeit money at the time of the execution of the search warrant three days earlier.

Your Honor, in terms of the interview that afternoon, there has been no reason that has been provided to us by the Government as to why that interview was necessary but for to obtain other information from this Defendant. And, in fact, that's more or less been conceded.

And in the Wilson case, the Court specifically says that: The desire of an officer to complete interrogation is the most unreasonable reason for [44] delaying bringing a person before a Magistrate of all of the things that can be considered in deciding whether or not the statement is admissible or inadmissible.

If it was not the reason to obtain a confession, or to obtain some incriminating information, as the U.S. Attorney suggests, perhaps someone else who might have been involved. I mean, that by itself implicates the person in knowledge of certain activities.

Why did they question him? They already had information from the detectives from the arrest, from certain statements that were allegedly made spontaneously, which are included in the complaint and affidavit which I attached as an exhibit to my reply, they had the counterfeit money. They had some information about so-called statements my client had made, which are not at issue here. What reason did they have to interview this person further but to obtain further information.

Interrogation means custodial questioning for the purpose of eliciting incriminating responses. How could—what—a person in custody can do little more than incriminate himself when he's being questioned regarding an offense.

It is true that the Court can consider factors outside of the delay itself. And in this case I'd simply [45] point out the long delay here, as is noted in Wilson, certainly undermines the validity of a Miranda warning when a

person is not even approached for questioning until after three days of being in county custody.

The questioning took place in an interview room. Interview rooms are notoriously small with not very—without windows and certain small amounts of furniture. There were four officers present during this questioning, four officers and my client. There was a general discussion about evidence. There's no evidence that there was an advisement of what he was being—what potential charges would be against him, and there was no attorney present.

In the Wilson case, the Court noted that there was no specific finding as to whether the defendant had been advised of what the charges were. And the facts leading up to that comment, I believe, that the defendant had been questioned both by the tribal authorities as to the offense at issue there which had to do with the child beating, specifically the defendant's son, and then was later interviewed by the F.B.I. agents. And the Court made a finding there that the defendant had not been advised of what specific thing he was being charged with.

Your Honor, I simply mention this because the Wilson case notes that these factors can be taken into [46] account, they don't preclude a finding of involuntariness and that the delay is a critical concern; specifically, when there's no apparent reason for the delay but for to obtain more information from the defendant. The delay in this case was 96 hours, and the delay in that matter was deemed to be unreasonable. The delay in the Fauche case was 20 hours, and that was deemed to be unreasonable.

Certainly in light of those factual—those factual circumstances, this case is clearly, clearly on par with those decisions.

One other matter, your Honor, is that it's noted in Agent Hernandez' declaration that my client didn't read the Spanish. In the Wilson case, the Court pointed to

various factors that tended to support a fact that the person that was being interviewed was not a highly educated person. And there's no evidence that that person had ever been in custody before. There's no evidence in this case that Mr. Alvarez had ever been in custody before and was familiar with the procedures of being a charged person in custody.

And for your Honor's information, we do not agree with all of the alleged statements. The factual statements that were—are alleged by the officers, [47] including the statement of being an officer and knowing everything that was going on. I mean, that—we are not—this is not the appropriate time to make those factual disputes, but if the time arises, then they will be there. And so that, I believe, is irrelevant for the purposes of this hearing.

Your Honor, I will submit on that.

THE COURT: I've now been provided with a copy of the missing papers, so I do now have the defense's reply to the Government's opposition to Defendant's motion filed on October the 20th. I do plan to take the matter under submission so that I can read those papers together with the cases that have been provided to the Court this afternoon.

Did Government's counsel wish to comment on something else?

MS. WARREN: Your Honor, because there three comments that were made that were not raised in her initial argument, there is a very brief argument I would like to make.

THE COURT: All right.

MS. WARREN: I raise this only because it appears to me that defense counsel is arguing facts that are not in the record. First—

THE COURT: And the Court is aware that [48] defense counsel made some reference to interview rooms and traditionally they are of a certain size and so forth.



If there is no evidence to indicate the size of this interview room, then obviously that's not something the Court would take into consideration.

MS. WARREN: Thank you, your Honor, that was the first of the three.

The second is the statement—the most important is the statement that they don't agree with the factual statements given, your Honor. There's been nothing, no evidence at all, presented to this Court other than the evidence presented in the declarations given by the Government and the testimony of Agent Lipscomb, all of which support the fact that this Defendant told the agents and the police that he had been—that he was a police officer in Mexico, that he knew what this was all about, and that he knew about the procedures.

And that, I believe, is the factual evidence upon which this Court—if those become important facts—should make its decision. Certainly not the evidence which is not under oath, the comments made by counsel. And that that would go to the statement about never having been in custody before because if one is an experienced police officer, one doesn't have to have been [49] in custody to know what interrogation procedures are.

Those are the final comments, your Honor.

THE COURT: Okay. Defense has the final word since it's defense's motion. If there's anything further, then I'll hear you. If not, I'll deem it submitted.

MS. KLAUSCHIE: Your Honor, I'm sorry, I meant no disrespect either to you or to Government counsel. I did submit on the declarations for the purposes of this hearing, and my position is simply—and I don't want to cause a ruckus about this—my position is simply that I am not challenging the version of the agents as to what statements were made. I'm just saying that there is some disagreement about that, and we do not wish to litigate it at this point. I'm prepared to submit on the declarations.

In terms of the interview room, I apologize. That's correct, there is no evidence as to that. I assume that would—the comments were more from a matter of common sense and experience than the basis of this record, and I apologize. I did not mean to mislead your Honor or make factual misrepresentations.

THE COURT: All right. The matter will be deemed submitted. Now, we don't have a trial date; is that correct?

[62] MS. WARREN: That's correct, your Honor.

THE COURT: Okay. I don't know if Mr. Levario has any suggestions as to a possible date for us to set the case for trial.

(Pause in proceedings).

THE COURT: Could counsel provide the Court with a time estimate for trial?

MS. KLAUSCHIE: Your Honor, my belief would be that it would be one and a half days at the most.

THE COURT: Okay. Government?

MS. WARREN: I would have said two days.

THE COURT: Okay. After the Court rules on the motion, then I'll ask the Government's counsel to prepare an order excluding time for whatever time period is left between today and the actual ruling. I think I already have signed an order that takes the Court up to—I'm not sure if it was last Monday or if it's up to today.

MS. WARREN: It's through today, your Honor.

MS. KLAUSCHIE: I believe it's today.

THE COURT: All right. Then I will work with the clerk in terms of trying to set a date, obviously, within the time requirements, keeping in mind the time estimate then is approximately two days for a selection of the jury as well as presentation of evidence.

[51] MS. WARREN: Yes, your Honor, that's that Government's estimate. I don't know how much time would be required by defense.

THE COURT: Defense counsel indicated a day and a half. I assume that that was—the total estimate is about two days; am I correct?

MS. KLAUSCHIE: That's correct, your Honor.

THE COURT: All right. Okay. Are there any time problems that either counsel has that maybe the Court should be aware of, or the clerk should be aware of, in selecting a date. For instance, if you have other trials on-going or something that you're concerned might conflict with the date that we might select for setting this case.

MS. WARREN: Your Honor, Agent Lipscomb informs me that he is scheduled to be in trial with Assistant U.S. Attorney Bill Fahey on the 22nd of November for that week, and for that week would be unavailable.

I'm to be transferred into the Complaints Unit November 16th, and therefore, this trial will, in all likelihood, be transferred to another assistant if the trial is scheduled after that week.

THE COURT: After November 16th?

MS. WARREN: After the week of the 12th, which [52] is only two weeks away.

MS. KLAUSCHIE: Your Honor, my only calendar conflict would be November 15th, which is a matter in front of Judge Tashima for trial. I'm expecting that it will settle, but we haven't as yet taken that status, so I should plan on being available in the event it doesn't. But otherwise, I'm open.

THE COURT: Okay. Keeping those dates in mind, Mr. Levario and I will try to select a date that would be within the Speedy Trial Act, of course, keeping in mind the dates that various persons would not be available.

MS. WARREN: Thank you, your Honor.

THE COURT: Okay. The matter is being submitted.

THE CLERK: Please rise.

(Proceedings concluded at 4:13 P.M.)

[Certificate Omitted in Printing]

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

NITED STATES OF AMERICA vs.

Docket No. CR- 88-671CBM

Defendant's Name PEDRO SANCHEZ-ALVAREZ  
Residence Metropolitan Detention Center  
Address 535 N. Alameda  
LA, CA 90012

Social Security No. 654-90-5341  
Mailing Address: Calle Lazarus Cardenas  
Municipio de Apasangan  
Michoacan, Mexico

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government  
the defendant appeared in person on this date Feb. 8, 1989

☐ WITHOUT COUNSEL ☒ WITH COUNSEL Carol Klauschie, DFPD & Andrea Alba, interpreter  
(Name of Counsel)

PLEA ☐ GUILTY, and the court being satisfied that there is a factual basis for the plea. ☐ NOLO CONTENDERE ☒ NOT GUILTY

FINDING There being a finding/verdict of ☐ NOT GUILTY. Defendant is discharged.  
☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of Possession of Counterfeit Government Obligations, in violation of Title 18, United States Code, Section 472, as charged in the one-count Indictment

JUDGMENT  
AND  
PROBATION/  
COMMITMENT  
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of Twelve (12) Months.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of Three (3) Years, upon the following terms and conditions:  
(1) not commit any federal, state or local crimes; (2) comply with the rules and regulations of the U. S. Probation Office and Gen. Ord. 225; (3) cooperate with the rules and regulations of the Immigration & Naturalization Service (INS); (4) if excluded from the United States, not reenter the United States without the expressed permission of INS. Upon any reentry into the United States during the period of supervised release, the defendant is to report to the nearest U. S. Probation Office within 48 hours of his reentry; (5) the defendant shall participate in a program approved by the U. S. Probation Office for treatment of narcotic addiction or drug dependency, which may include counseling and testing, to determine if the defendant is using drugs; and (6) the defendant shall report to the U. S. Probation Office within 48 hours of release from confinement.

IT IS ORDERED that the defendant shall receive credit for time served commencing Aug. 5, 1988. Defendant is advised of his right to appeal.

ADDITIONAL  
CONDITIONS  
OF  
PROBATION

It is further ordered that the defendant pay a special assessment of \$ 50.00 to Clerk, U.S. District Court.

Signed by

Consuelo B. Marshall  
U.S. District Judge

☐ U.S. Magistrate

Date FEB 8 1989

It is ordered that the Clerk docket a certified copy of this judgment and commitment to the U.S. Marshal, at the U.S. Probation Office.

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SUPREME COURT OF THE UNITED STATES

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No. 92-1812

UNITED STATES, PETITIONER

v.

PEDRO ALVAREZ-SANCHEZ

---

Filed October 12, 1993

**ORDER ALLOWING CERTIORARI**

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The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted.

October 12, 1993